

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
COLUMBUS DIVISION

KEVIN BEARY, SHERIFF OF ORANGE
COUNTY, FLORIDA, IN HIS OFFICIAL
CAPACITY, INDIVIDUALLY, AND ON
BEHALF OF ALL OTHERS SIMILARLY
SITUATED,

PLAINTIFF,

v.

NATIONWIDE LIFE INSURANCE CO.,
NATIONWIDE RETIREMENT
SOLUTIONS, INC., and NATIONWIDE
FINANCIAL SERVICES, INC.,

DEFENDANTS.

CIVIL ACTION NO. C2 06 967

**NOTICE OF APPEAL TO THE
UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

Notice is hereby given that Kevin Beary, Sheriff of Orange County, Florida, in his official capacity, individually and on behalf of all others similarly situated, Plaintiffs in the above named case, hereby appeal to the United States Court of Appeals for the Sixth Circuit from the Court's Opinion and Order of September 17, 2007 granting Defendant's Motion to Dismiss, the Court's Judgment of September 17, 2007 dismissing this case, and the Court's Opinion and Order of September 15, 2008 denying Plaintiff's Motion to Vacate and for Leave to File Amended Complaint.

Dated this 15th day of October, 2008.

Respectfully submitted,

/s/ Jeffrey C. Engerman

Marc R. Stanley
Roger L. Mandel

Martin Woodward
STANLEY, MANDEL & IOLA, L.L.P.
3100 Monticello Avenue, Suite 750
Dallas, Texas 75205
214-443-4300
214-443-0358 (Fax)

Scott E. Smith (003749)
Trial Attorney
SMITH, PHILLIPS & ASSOC.
1225 Dublin Road
Columbus, Ohio 43215
614-846-1700
614-486-4987 (Fax)

Allen C. Engerman
LAW OFFICES OF ALLEN C. ENGERMAN, P.A.
Sanctuary Centre
4800 North Federal Highway, Suite 100-D
Boca Raton, Florida 33431
561-392-2222
561-392-2123 (Fax)

Jeffrey C. Engerman
LAW OFFICES OF JEFFERY C. ENGERMAN, PC
12400 Wilshire Boulevard, Seventh Floor
Los Angeles, California 90025
310-207-7777
310-207-7779 (Fax)

Edward Siedle
79 Island Drive South
Ocean Ridge, Florida 33435
561-202-0919
561-202-0191 (Fax)

Plaintiff's Counsel

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following persons:

Quintin Franc Lindsmith (qlindsmith@bricker.com, cwarner@bricker.com)

Sommer Lynn Sheely (ssheely@bricker.com, dthompson@bricker.com)

Bricker & Eckler LLP

100 South Third Street

Columbus, Ohio 43215

614- 227-2390 (Facsimile)

Tori Kim (tori.kim@wilmerhale.com)

Charles Platt (charles.platt@wilmerhale.com)

Wilmer Butler Pickering Hale and Dorr LLP

399 Park Avenue

New York, New York 10022

212-230-8888 (Facsimile)

Mark Bieter (mark.bieter@wilmerhale.com)

Heath Brooks (heath.brooks@wilmerhale.com)

Daniel Squire (daniel.squire@wilmerhale.com)

Wilmer Cutler Pickering Hale and Dorr LLP

1875 Pennsylvania Avenue, N.W.

Washington, D.C. 20006

202-663-6363 (Facsimile)

DATED: October 15, 2008

/s/ Jeffrey C. Engerman

Jeffrey C. Engerman